

High Court Agrees to Settle CIA Letter-Opening Case

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The Supreme Court probably will settle before summer whether it will be easy, or difficult, to sue CIA officials for secretly opening people's mail.

The court said yesterday that it will review a lower court decision that permits two former CIA leaders to be summoned to federal court anywhere in the nation to defend their actions.

A hearing on the case is expected in April, with the justices' final decision before the court's summer recess.

If the lower court ruling is upheld, former CIA Director William E. Colby and his deputy, Vernon A. Walters, would have to defend their actions in federal courts in Rhode Island and perhaps elsewhere.

They also would have to hire their own defense lawyers, and not depend upon government attorneys, and, if they lose, they could have to pay damages themselves.

EVEN THOUGH the mail-openings that produced huge damage lawsuits came as official actions by the CIA, the lawsuits claim that Colby, Walters and lesser federal officials are personally responsible.

The existing lawsuits were filed against them individually, and were filed in Rhode Island because one person claiming to be a victim of the mail-opening lives there.

A key argument the court will be offered by the federal officials is that, if they are going to be sued anywhere but in Washington, where they worked, they can be sued only in their official capacities.

That would assure them that the government would pay any damages that resulted, and the cases would be handled by government-paid lawyers.

The test case arose because Congress in 1972 passed a law to make it easier to sue federal officials on the

ground that their actions violated someone's constitutional rights.

Under that law, any citizen may file a lawsuit for damages in U.S. District Court in the state where the citizen lives.

The 1st U.S. Court of Appeals ruled last May that the law permits such suits only against officials who were still in office at the time the case was filed, and those officials may be sued as individuals.

COLBY AND WALTERS were top CIA officials when five persons accused them and 23 other officials — 16 of whom had already left the government or changed government jobs — of 20 years of constitutional violations.

That claim was based on a CIA project under which agents opened, read and circulated about 215,000 pieces of mail to and from the Soviet Union.

The lawsuit, which has not yet gone to trial because of the dispute over where it could be filed, seeks \$20,000 in damages for each opened letter and \$100,000 in punitive damages for every one of tens of thousands of persons whose mail probably was opened.

The Appeals Court ruled that the former officials, or those who had changed jobs, could not be sued under the 1972 law — a result that the Supreme Court refused yesterday to review in a separate appeal.

That leaves Colby, Walters and seven other lesser officials still involved.

The court agreed not only to hear their appeal, but also an appeal filed by U.S. prosecutors sued for damages for their role in an investigation of an anti-war group in Florida in 1972.

In another case the court agreed yesterday to decide, the issue is whether a sheriff or police officer who makes a simple mistake and arrests the wrong person may be sued for damages.